

MENTAL HEALTH/DEVELOPMENTAL DISABILITIES/SUBSTANCE ABUSE
SERVICES – COMMISSION for MH/DD/SA Services WORK GROUP

MINUTES OF THE MEETING
JANUARY 23, 2002

The meeting was called to order by Representative Martha Alexander, co-chair, who greeted the members and visitors who then introduced themselves. The members present were Senators William Martin, co-chair, Virginia Foxx and William Purcell and Representatives Alexander, Esposito and Crawford. Staff counsel, Linda Attarian and Gann Watson and committee assistant, Ann Faust introduced themselves. Representative Verla Insko, co-chair of the full committee and Rennie Hobby, committee assistant to the full MH/DD/SAS committee and Karen Hammonds-Blanks, staff counsel to the full committee were recognized.

Senator Martin reviewed the Charge to the Committee: to review the current statutes regarding Commission composition, appointment authority, powers and duties, and other issues that the workgroup identifies as needing review and to recommend necessary changes to ensure the Mental Health, Developmental Disabilities, and Substance Abuse Services Commission's ability to effectively carry out its duties under the law.

Linda Attarian reviewed the current statute covering appointment authority, composition, terms of office and powers and duties in comparison with selected other Commissions dealing with the same issues. (See Attachment C) The Commission is the only one among those compared to which the General Assembly appoints members, and it emphasizes citizen and consumer participation. HB 381, as amended by HB 338, changes the length of terms served by members appointed by the Governor on or after July 1, 2002, from four year terms to two year terms to make the terms of the Governor's appointments the same length as the terms of the General Assembly's appointments. As a result of the legislation, members of the Commission appointed by the Governor before July 1, 2002 shall serve four year terms, and all members appointed on or after July 1, 2002 will serve two year terms. HB 381 also provides that no member shall serve more than three consecutive terms, no matter when the member was appointed or by which appointing authority. In response to a question from Representative Alexander, Ms. Attarian said that members of the other commissions may serve indefinitely; there are no statutory limits. Ms. Attarian said the scope of authority for rule making is very broad, and HB381 expanded the scope of rule making authority to include the following programmatic areas: screening, assessment, referral, detoxification, continuing care, emergency services and case management. The Commission also has the authority to advise the Secretary regarding the provision and coordination of services provided for MH/DD/and SA illnesses and the authority to review and advise the Secretary regarding all State plans required under federal and State law.

Senator Foxx questioned the potential for conflict in the roles of the Commission to make rules and advise the Secretary. Ms. Attarian said that the Commission is to be

independent in its rule making but to work with the Secretary in an advisory capacity. Senator Purcell asked why the Commission is so large and why the term limits. Senator Martin responded that a large array of representation professionals, consumers, family members and program providers necessitated a large number of members. Size will be evaluated as work progresses. Ms. Watson added that various commissions were enacted at different times and that the MH/DD/SAS Commission covers more areas than most and has rule making authority, and the Secretary must abide by those rules. Senator Martin said that, among other considerations, this committee may determine whether there is clarity among the categories of appointees, whether there should be separate staffing of the Commission, and possible overlap with other rule making bodies, and, in the appointments to the Commission, what is the proper balance between a “citizen’s” perspective and a clinician’s perspective.

Representative Alexander thanked Gann Watson for preparing an overview of the Rulemaking Authority of the Commission and the Secretary. (See Attachment D)

Representative Alexander introduced Pender McElroy, Chairman of the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services for a report from the Commission. Mr. McElroy said that all members of the Commission are advocates, and the present Commission members are very diverse, nine are professionals, and at least three are consumers. He said that the present Commission is an activist group dedicated to providing the most help possible within the existing financial restraints. The most recent undertaking dealt with implementing the seclusion and restraint legislation just passed. The Commission has the dual responsibilities of rule making for MH/DD/SAS services in the state and advising the Secretary. There is a rules committee, chaired by Floyd McCullough of Goldsboro, and an advisory committee chaired by Dr. Paul Gully from Elkin, and every Commission member serves on at least one. The Commission meets four times a year, and the committees meet the month prior to the Commission meeting. Recommendations are made to the Secretary from the advisory committee and to the Commission from the rules committee which works with staff to incorporate the proposed rule change into statute. The strengths of the Commission are dedication, concern and insight of the members and hearing the voice of the consumers, families, taxpayers and providers. Mr. McElroy was very concerned about the short length of term; two years is not sufficient to be well informed and productive. He recommends four-year terms. He also recommended that all rule making authority be vested in the Commission, and that the Secretary's rule making authority be terminated. In response to a question from Senator Martin, Mr. McElroy said there are no problems presently, but when disagreements arise, there is a question of who has the ultimate authority. The Secretary has made fewer rules as the Commission has become more active. Senator Purcell asked how to improve services to consumers, which is the goal of the legislation. Mr. McElroy said the problems in the system are not structural or governance or performance. Funding is too limited for good delivery of services. Management, both State and local, could be improved. In response to a question from Senator Foxx, Ms. Watson said that rule changes proposed by the Secretary do go through the APA process. She also said that “rule” and “standard” have the same meaning in the language for rule making authority. Tara Lawson said that parts of the

State plan have to go through the rule making process, some go to the Secretary, some to the Commission.

Representative Alexander asked for suggestions for the next meeting's agenda. Dr. Fraser noted two primary concerns raised: two year term of Commission members is too short and split rule-making authority.

Tara Larson said that there is a report, in the State plan, regarding ambiguity of rules and policy and procedures which was requested by the full committee. As a result of previous feedback from public hearings and the general public, there is a piece having to do with the authority of various commissions and how it impacts on MH/DD/SA services. She thinks this committee might want to review that. Senator Foxx would like to go over the issues raised in the report in a future meeting.

The next meeting is February 7, 2002 from 10:00 – 12:00.

Dr. Fraser said that the impetus for studying this issue came from the Oversight Committee in hearing from different groups. There seemed to be ways to make the Commission more effective. She asked the groups attending to bring ideas.

The meeting was adjourned at 2:35 pm.

Representative Martha Alexander, Co-Chair

Senator William Martin, Co-Chair

Ann Faust, Committee Assistant

Attachments:

- A. Visitors Roster
- B. Work Group Charge
- C. Comparison of the Composition, Terms, and Powers of the Commission for MH/DD/SAS with Other Commissions that impact MH/DD/SAS Services
- D. Rule Making Authority